



DATE: April 19, 1996

TO: Rick Breitenbach

FROM: Ken Bogdan *RJB*

SUBJECT: Alternatives Analysis Requirements of the U. S. Army Corps of Engineers (Corps) under Section 404(b)(1) of the Clean Water Act

This memorandum addresses several issues raised in my memorandum dated April 8, 1996 regarding application of Section 404(b)(1) requirements to CALFED's current development of programmatic alternatives, as discussed in a meeting with Corps representatives on March 29, 1996. This memorandum includes recommendations for approaches to addressing these issues in a manner that ensures compliance with the EPA Section 404(b)(1) Guidelines. Compliance with the EPA Section 404(b)(1) Guidelines in selecting alternatives for the programmatic EIS/EIR will substantially satisfy the alternatives analysis requirements for "offsite alternatives", thus avoiding reconsideration of such alternatives by the Corps in subsequent project-level environmental documents.

Multiple Program Objectives

When applying EPA Section 404(b)(1) Guidelines to a typical project, the Corps independently evaluates individual alternatives that meet each project objective and identifies practicable alternatives for each objective. The CALFED Bay-Delta Program, in contrast, seeks to attain a set of 14 objectives in four resource areas: ecosystem quality, water quality, water supply, and levee system reliability.

It is important that the CALFED Bay-Delta Program emphasize and clearly document the fundamental integration of Bay-Delta resource objectives in its alternatives selection process. As stated in the Draft Purpose and Need Statement for the CALFED Bay-Delta Program Environmental Impact Statement/Report (page 3, April 1996 version), the problems to be addressed by the program are "inextricably intertwined" and "interdependent and interrelated". Therefore, alternative program solutions to meet the objectives must address these multiple problems in an integrated manner.

On the other hand, it is important that potentially practicable actions not be excluded from the alternatives under consideration merely because they do not contribute to satisfying all program objectives in concert. Representing all potentially practicable actions to address each program objective in at least one and preferably all of the programmatic alternatives should satisfy this requirement.

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Practicability Criteria

EPA Section 404(b)(1) Guidelines describe application of practicability criteria (including cost, technical, and logistical factors) to screen alternatives under consideration. The CALFED "solution principles" have been considered as a tool to screen alternatives. In the meeting on March 29, Corps representatives cautioned against overly restrictive application of the solution principles to "unduly limit the analysis of potential practicable alternatives."

It is important that the selection of CALFED program alternatives not unduly exclude potentially practicable alternatives, components of alternatives (e.g., demand management), or actions. Exclusion of potentially practicable actions must be based on careful documentation of cost, technical, or logistical factors that make an action, component, or alternative not practicable. In addition, an alternative should not be excluded because it presently includes a high-intensity action that is judged to be impracticable when a lesser intensity of that same action would make the alternative practicable.

Conclusion

Compliance with the EPA Section 404(b)(1) Guidelines in selecting alternatives for the programmatic EIS/EIR will be ensured by:

- emphasizing the fundamentally integrated and intertwined nature of Bay-Delta problems and emphasizing, therefore, that solution alternatives need to satisfy multiple program objectives,
- not excluding an alternative or component because it does not contribute to satisfying all program objectives in concert, and
- including a broad range of alternatives and components of alternatives that are potentially practicable (unless careful documentation of factors that cause lack of practicability is provided).

Please call if you have questions.

cc: Jim Monroe - U.S. Army Corps of Engineers
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